

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY vs. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: U.S. Army Corps of Engineers, Sacramento District
FILE NUMBER: 200400817

REGULATORY PROJECT MANAGER: Richard Gebhart DATE: August 26, 2005

PROJECT REVIEW/DETERMINATION COMPLETED: In the Office (y/n) Y Date: 30 Nov 2004
At the project site (y/n) N

PROJECT LOCATION INFORMATION:

State: Nevada
Counties: White Pine and Elko
Center coordinates of site by latitude & longitude coordinates: Latitude 39° 27' 16", Longitude 114° 48' 45"
Approximate size of site/property (including uplands & in acres): Unknown
Name of waterway or watershed: Steptoe Valley; Butte Valley; and Jakes Valley

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Feet	Unknown
Lake									√
River									√
Stream									√
Dry Wash									√
Mudflat									√
Sandflat									√
Wetlands									√
Slough									√
Prairie pothole									√
Wet meadow									√
Playa lake									√
Vernal pool									√
Natural pond									√
Other Water (identify type)									√
¹ Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.									

Migratory Bird Rule Factors ¹	If Known		If Unknown (Use Best Professional Judgement)		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?	√		√		
Is or would be used as habitat by other migratory birds that cross state lines?	√		√		
Is or would be used as habitat for endangered species?	√		√		
Is used to irrigate crops sold in interstate commerce?				√	
¹ Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.					

TYPE OF DETERMINATION: Preliminary √ Or Approved

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 - site conditions; paragraphs 2-3 - rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 - site information on waters of the U.S. occurring onsite):

1. The Bureau of Land Management is preparing an EIS for the White Pine power station and needs to know if any waters in the project area would be jurisdictional. The project area mostly involves Steptoe Valley, in addition to Jakes Valley and Butte Valley. These valleys are very sparsely populated and support some agriculture grazing. The vegetative community is a sagebrush association.
2. All valleys are in closed basins.
3. No interstate commerce use is evident that would rely on the use of waters that is associated with the proposed power station.
4. Duck Creek and its adjacent tributaries and wetlands and Goshute Lake, both in Steptoe Valley, do support migratory birds. Duck Creek has extensive wetlands and braided channels. Nearly of the tributaries that flow into these valleys are ephemeral. The mountain ranges on the perimeter of these valleys are very high, and the tributaries at the upper reaches are often perennial to intermittent.